

The Action Force On Asbestos Pollution
CLYDESIDE ACTION ON ASBESTOS
Support For Victims, Welfare Rights, Research and Hazards
Headquarters at 15 St Margaret's Place, Glasgow G1
Tel 041 552 8852 Fax 041 552 8352

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I would like to start by thanking everybody who has been part of the collective team since last year's AGM. We would never have achieved the credibility and recognition we now have worldwide without the expertise and effort of all who were part of C.A.o.A.. Sometimes the pressure got to us but still we strived and continued the war against the separate and combined forces of the D.S.S., the Medical and Legal establishments, the insurance companies, the Employers Federation, the manufacturers and the Government.

We have broken into the closed shop of the media, the press and television. As a news item the asbestos issue would appear once every six months, now hardly a week goes by without some reference to the increasing asbestos holocaust. We believe that our small efforts have been a contributory factor in the present loss of confidence in Lloyds.

We have established world-wide contacts within the medical and legal professions. This has resulted in a flow of information of a high quality and has revealed conclusive proof of conspiracy and cover-up within the industry, the medical profession and the Factory Inspectorate.

The quality of our representation at D.S.S. tribunals is of the highest and recognised as such by the leading Welfare Rights officers in the Strathclyde region. Through the efforts of the people involved we have established a system of analysis and attack. However, in this area we are severely understaffed and it is imperative we embark on a program of recruitment and education.

Our data-base is being expanded to include a detailed history of the companies involved. This will be of enormous help to asbestos victims who seek evidence in support of their civil claims.

We have opened up branch offices in Clydebank, Greenock and Liverpool. We intend to spread our action into Northern Ireland by opening offices in Derry and Belfast. We believe this small contribution will be a combining force in that maelstrom of social disintegration. Asbestos victims die neither orange or green but with white lungs.

The AIDS campaign has been successful in securing hospices for the unfortunate victims of this dread disease but to date not one has been made available for the many, many victims of asbestosis. The campaign for a hospice continues.

We are calling for alternative methods of diagnoses such as computer axial tomography (C.T. scans) and DNA probes and the scrapping of the murderous diagnostic tools of biopsy and Lung Function Tests.

Up to a year ago any post mortem in an asbestos case was an exceptional occurrence. In England and Wales post mortems are automatic in any case of death where there is suspected industrial poisoning.

Post mortems in Scotland are entirely within the discretion of the Procurator Fiscal. Also, where there were post mortems in asbestos related deaths, the most essential evidence in such cases; asbestos particle counts, were never taken. We fought against this policy of wilful ignorance and have now changed the present practice to our advantage. Post mortems and particle counts are now becoming standard practice in asbestos related deaths and enforced by a recommendation from the Crown Office.

Our efforts have brought about The Effect of Death on Damages (Scotland) Bill 1993 which was purportedly to achieve parity with England and the rest of the U.K. Prior to this, any claim for damages for industrial injury or disease that was still in process when the plaintiff died, died with the claimant. The new amendment means that posthumous claims for damages are now admissible in Scottish courts.

Another reason for the change in law was to prevent the practice of delay in process. In the case of asbestos victims the litigation would be stretched out until the death of the claimant and the consequent death of the claim. This practice of delay was commented on by the Scottish Law Commission in 1965 as "...an incentive inherent in present law for a defender to postpone making settlement or reaching proof until after the death of the pursuer in order to minimise the amount of any compensation paid." there is ample proof of this and Clydeside Action on Asbestos led the campaign to abolish this anomaly. The result was the new Damages (Scotland) Bill. However, this failed to achieve parity with the rest of the U.K. being only effective in Scotland from July 1992. No posthumous claims are acceptable if the subject died before this date. Disparity also occurs in the standard of settlements between Scotland and the rest of the U.K., compensation being at least three times higher than in Scotland. In Northern Ireland civil claims for damages are determined by jury.

A further disparity is now becoming apparent. Any settlement of a posthumous claim will be smaller than any made if the claimant is alive.

This situation only favours the asbestos producers and their cohorts and we know these corporate murderers favour the quality of settlements in Scottish courts.

Because the Damages (Scotland) Bill was formulated without reference as to its effects or to the many reservations made by Clydeside Action on Asbestos months prior to its first reading, we the victims, are back to Square One.

Therefore, it is our mandate that we fight against this ruinous anomaly for justice delayed is justice denied or else we can look forward to the continuing abuse of our friends and dear ones by an implacable Department of Social Security and a legal system more concerned with tinkering with the technicalities of law than refining principles of equity and justice.

We are also proposing that the present criteria for assessing asbestosis cases for disability benefit be abolished and our criteria be adopted. Our argument is contained in the document:-

THE DSS CRITERIA FOR DIAGNOSING AN ASBESTOS ILLNESS

Funding has always been a problem. In the past, were it not for the help from trade union branches and the members of CAoA, we would be out of business. Nevertheless, we have established credibility and respect within the relevant Regional Authorities and District Councils and this contact has proved fruitful. We have to date, kept our heads above water, but we need funds more desperately than ever.

The changes in the legal aid system is the most serious threat to the continuance of our work. These changes will have a direct and devastating effect on an average asbestosis sufferer pursuing a claim for civil damages. Because of additional benefits awarded to "manage an illness" the asbestos victim will be exempt from full legal aid. We feel that in individual cases this constitutes an injustice and in national terms a massive injustice. The changes only protect the asbestos companies, their customers and their insurers.

Furthermore, if men and women injured at their place of work are unable to sue their employer because of additional benefits for the "management of an illness contracted at their place of work" then it follows that more employers will continue to ignore their responsibility in the matter of health and safety in the workplace, the consequence of which will result in an increased incidence of industrial disease and accidents.

It is vital that we get sufficient funding, for we fully intend to subsidise our clients in their pursuance of claims for civil damages, otherwise an asbestosis case in the Court of Sessions will become more a rarity than it is at present. Fundamentally, the changes represent a gross infringement on our civil liberties and are a concern of the highest priority not only for ourselves but all trades unionists.